

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

JOHNNY R. HUFF,

Petitioner,

v.

Civil Action No. 3:07CV691

COMMONWEALTH OF VIRGINIA,

Respondent.

MEMORANDUM OPINION

Johnny Huff submitted this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Huff is currently detained pending a determination of whether he is a sexually violent predator under Virginia's Civil Commitment of Sexually Violent Predators Act, Virginia Code §§ 37.2-900 et seq. By Memorandum Opinion and Order entered on July 7, 2008, the Court dismissed the action without prejudice because Huff had not exhausted his available remedies in the Virginia courts. Huff has filed a notice of appeal. The matter is before the Court on Huff's "'Coram Nobis' Writ of Error" and motion for a certificate of appealability.

Huff's "'Coram Nobis' Writ of Error," which was received on July 28, 2008, consists of a discursive list of legal citations and questions Huff wants answered. The document does not identify any clear error in the Court's July 7, 2008 decision or any coherent legal basis for the Court to act upon his request for habeas relief at this time. To the extent that the document can be considered a

motion for relief under Federal Rule of Civil Procedure 60(b), the motion (Docket No. 62) will be DENIED.

An appeal may not be taken from the final order in a habeas corpus proceeding unless a judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(A). A certificate of appealability will not issue unless a prisoner shows "that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further." Miller-El v. Cockrell, 537 U.S. 322, 336 (2003) (internal quotation marks omitted) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)). For the reasons stated more fully in the July 7, 2008 Memorandum Opinion, Huff has not made such a showing. Accordingly, Huff's motion for a certificate of appealability (Docket No. 63) will be DENIED.

The Clerk is DIRECTED to mail a copy of the Memorandum Opinion to Huff, counsel of record, and the Clerk for the United States Court of Appeals for the Fourth Circuit.

And it is so ORDERED.

_____/s/ REP
Robert E. Payne
Senior United States District Judge

Richmond, Virginia
Date: August 14, 2008